

## **REMARKS**

### **Status**

Restriction was required by the Examiner between Groups I, II, III, IV, V, and VI. During a phone conversation with Ray Owens, an attorney of record, on November 16, 2005, Applicants hereby confirm their election to prosecute the invention of Group 1, Claims 1-3. Claims 4-22 are withdrawn.

By this Amendment, the specification has been amended to reflect the serial numbers of related cases. In addition, Applicants have amended Claims 1 and 3 in order to clarify and more particularly point out the invention. Applicants have canceled Claim 2, and have added new Claims 23-36. Accordingly, Claims 1, 3, and 23-36 are pending in the application, and are presented for consideration and allowance.

### **Claim Rejection -- 35 U.S.C. § 112**

Claim 1 was rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as their invention. The informality noted by the Examiner has been corrected by replacing the term "such" with "the visual". Accordingly, Applicants submit that amended Claim 1 is now in statutory format.

### **Claim Rejection -- 35 U.S.C. § 101**

Claims 1-3 were rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter.

Claim 1 has been amended to overcome this rejection. As amended, the claim requires electronically storing affective information that classifies a first digital image from a plurality of stored digital images. This classification indicates that the first digital image is more important than a second digital image from the plurality of digital images. The stored affective information is used to determine that the first digital image is more important than the second digital image. An album is produced of visual images from the plurality of stored digital images, where the size of the first visual image produced using the first digital image is larger than the size of the second visual image

produced using the second digital image. Clearly, Claim 1 is now in statutory format, as well as Claim 3 that depends therefrom. There is electronic storage and Claims 1 and 3, taken as a whole, cannot be accomplished by mental processes, or by paper and pencil. As stated above, Applicants have cancelled Claim 2. If there is a problem with the format of these claims, Applicants' attorney would appreciate a phone call.

**Claim Rejection - 35 U.S.C. § 102(b)**

Claim 1 was rejected under 35 U.S.C. § 102(b) as being anticipated by "FotoFile: A Consumer Multimedia Organization and Retrieval System" (hereinafter, *FotoFile*).

As discussed above, Applicants' amended Claim 1 relates to a method of arranging a plurality of visual images in an album based on affective information that classifies the images. The classification indicates that a first digital images is more important than a second digital image from the plurality of digital images. The album of visual images is produced where the size of a first visual image produced using the first digital images is larger than a second visual image produced using the second digital image.

*Fotofile* relates to an application for managing and organizing consumer digital media, where a photo album is used as the primary organization metaphor.

Applicants submit that *Fotofile* neither shows, describes, or suggests Applicants' claimed feature of producing an album of visual images from a plurality of stored digital images where the size of a first digital image produced using the first digital image is larger than the size of a second visual image produced using the second digital images. In Applicants' claimed invention, stored affective information determines that the first digital image is more important than the second digital image. Page 7 of the Office Action cites page 498 of *Fotofile* as indicating that an album in *Fotofile* is a persistent collection of media objects, which are arranged into pages, and that a user can assign a representative image for the album cover. Page 498 of *Fotofile* also indicates that certain images can be tagged as the best in the collection. Clearly, however, this does not teach increasing the size of visual image in an album that is determined

to be more important than another. Moreover, there is no motivation for this unobvious feature in *Fotofile*. Accordingly, for at least the reasons stated above, Applicants believe that Claim 1 is in condition for allowance. Claims 3 and new Claims 23-36 are dependant on Claim 1, and therefore include all the features thereof. Thus, Claim 3 and Claims 23-36 are also believed to be patentable.

Claim 1 was rejected under 35 U.S.C. § 102(b) as being anticipated by FlipAlbum 3.0 (hereinafter, *FlipAlbum*), or in the alternative, under 35 U.S.C. § 103(a) as obvious over *FlipAlbum* and in view of Roget's II The New Thesaurus (hereinafter, *Roget*).

*FlipAlbum* relates to an application for categorizing, indexing, annotating, and viewing images stored on a hard disk drive. The application creates an album of any directory with a table of contents, thumbnail images, individual pages of images, and an alphabetized index.

Applicants respectfully submit that *FlipAlbum*, whether taken singly or in combination with *Roget*, fails to show or suggest Applicants' claimed feature of producing an album of visual images from a plurality of stored digital images where the size of a first digital image produced using the first digital image is larger than the size of a second visual image produced using the second digital images. Again, in Applicants' claimed invention, stored affective information determines that the first digital image is more important than the second digital image. Although *FlipAlbum* indicates that a resizing of the photo album can be performed, all of the images within the album would be correspondingly resized -- there is no motivation that images can be selectively resized. Thus, there is clearly no suggestion nor motivation in either *FlipAlbum* or *Roget* that images identified as being important are sized larger than other images in an album as in Applicants' claimed invention. Accordingly, for at least the reasons stated above, Applicants believe that Claim 1 is in condition for allowance. Claims 3 and new Claims 23-36 are dependant on Claim 1, and therefore include all the features thereof. Thus, Claim 3 and Claims 23-36 are also believed to be patentable.

It is believed that these changes now make the claims clear and definite and, if there are any problems with these changes, Applicants' attorney would appreciate a telephone call.

In view of the foregoing, it is believed none of the references, taken singly or in combination, disclose the claimed invention. Accordingly, this application is believed to be in condition for allowance, the notice of which is respectfully requested.

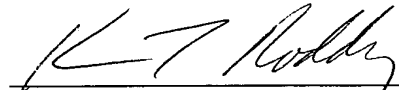
#### Summary

Should the Examiner consider that additional amendments are necessary to place the application in condition for allowance, the favor is requested of a telephone call to the undersigned counsel for the purpose of discussing such amendments.

For the reasons set forth above, it is believed that the application is in condition for allowance. Accordingly, reconsideration and favorable action are respectfully solicited.

The Commissioner is hereby authorized to charge any fees in connection with this communication to Eastman Kodak Company Deposit Account No. 05-0225.

Respectfully submitted,



Kevin T. Roddy  
Attorney for Applicants  
Registration No. 50,577

Rochester, NY 14650-2201  
Telephone: (585) 722-9349  
Facsimile: (585) 477-4646

If the Examiner is unable to reach the Applicant(s) Attorney at the telephone number provided, the Examiner is requested to communicate with Eastman Kodak Company Patent Operations at (585) 477-4656.